

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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NINTENDO OF AMERICA INC.,

Opposer,

v

MARIO JONES,

Applicant.

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Opposition No. 91221324

Serial No.: 86/283,191

Mark: SUPAH MARRIO

Filed: May 17, 2014

Published: December 2, 2014

Classes: 41

**ANSWER WITH AFFIRMATIVE DEFENSES TO OPPOSITION**

MARIO JONES (the "Applicant") hereby answers and responds to the Opposer's Opposition as follows:

1. The Applicant is without knowledge or information sufficient to aver the truth of the allegations in paragraph 1 of the Opposition, and on that basis DENIES them.
2. The Applicant ADMITS the allegations in the paragraph 2.
3. The Applicant is without knowledge or information sufficient to aver the truth of the allegations in paragraph 3, and on that basis DENIES them.
4. The Applicant is without knowledge or information sufficient to aver the truth of the allegations in paragraph 4, and on that basis DENIES them.
5. The Applicant is without knowledge or information sufficient to aver the truth of the allegations in paragraph 5, and on that basis DENIES them.
6. The Applicant is without knowledge or information sufficient to aver the truth of the allegations in paragraph 6, and on that basis DENIES them.
7. The Applicant is without knowledge or information sufficient to aver the truth of the allegations in paragraph 7, and on that basis DENIES them.
8. The Applicant is without knowledge or information sufficient to aver the truth of the allegations in



\*05-13-2015\*

paragraph 8, and on that basis DENIES them.

9.The Applicant is without knowledge or information sufficient to aver the truth of the allegations in paragraph 9, and on that basis DENIES them.

10.The Applicant is without knowledge or information sufficient to aver the truth of the allegations in paragraph 10, and on that basis DENIES them.

11.The Applicant is without knowledge or information sufficient to aver the truth of the allegations in paragraph 11, and on that basis DENIES them.

12.The Applicant is without knowledge or information sufficient to aver the truth of the allegations in paragraph 12, and on that basis DENIES them.

13.ADMITS.

14.ADMITS.

15.DENIES.

16.DENIES.

17.The Applicant is without knowledge or information sufficient to aver the truth of the allegations in paragraph 17, and on that basis DENIES them.

18.DENIES.

19.DENIES.

20.DENIES.

21.DENIES.

22.DENIES.

23.DENIES.

24.DENIES.

**WHEREFORE**, the Applicant prays for relief as follows:

- A. That the Opposer's Opposition be dismissed with prejudice;
- B. That the Opposer be required to pay the Applicant's costs, expenses and reasonable

attorney's fees in conjunction with this proceeding;

- C. That the Applicant have such other, further and different relief as this Board deems just.

### **AFFIRMATIVE DEFENSES**

1. The Applicant, for her Affirmative Defenses, without admitting that she bears the burden of persuasion of these issues, states as follows:

#### **FIRST AFFIRMATIVE DEFENSE**

2. All or some of the claims asserted against the Applicant may be barred by the “unclean hands” doctrine, laches and/or estoppel.

#### **SECOND AFFIRMATIVE DEFENSE**

3. All or some of the claims asserted against the Applicant may be barred under the terms of the parties' agreement.

#### **THIRD AFFIRMATIVE DEFENSE**

4. The Opposer's claims may be barred in whole or in part, or its recoverable damages should be reduced, because it failed to take reasonable steps to minimize damages.

#### **FOURTH AFFIRMATIVE DEFENSE**

5. The Opposer's damages as alleged, which is not admitted, resulted in whole or in part from the Opposer's or third party's actions for which the Applicant is not responsible.

#### **FIFTH AFFIRMATIVE DEFENSE**

6. The Opposer's claims may be barred by lack of consideration and/or failure of consideration.

#### **SIXTH AFFIRMATIVE DEFENSE**

7. The Opposer's claims may be barred in whole or in part, following 'accord and satisfaction', settlement agreement, modification of the original agreement and/or novation.

#### **SEVENTH AFFIRMATIVE DEFENSE**

9. The Opposer's claims may be barred in that they are not supported by the history of of

the Opposer's conduct and dealings.

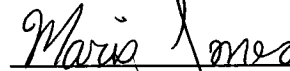
**EIGHTH AFFIRMATIVE DEFENSE**

10. The Opposer's may be barred in whole or in part because the Applicant's claim may be protected by the United States Constitution.

The Applicant hereby gives notice to the Opposer that until the Applicant avails himself of his right of discovery, he cannot determine whether the above-stated affirmative defenses will be asserted at trial, but in order to preserve his right to assert the affirmative defenses and to avoid waiver of any defenses, they are set forth herein.


Furthermore, the Applicant has the right to add such other affirmative defenses as may become known to him through the course of discovery and investigation of this matter.

Dated: May 08, 2015.

  
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MARIO JONES  
355 Crescendo Way  
Silver Spring, MD 20901  
**PRO SE DEFENDANT**

**CERTIFICATE OF SERVICE**

I, Mario Jones, hereby certify that a true and correct copy of the foregoing Answer with Affirmative Defenses was served on Katherine Keating, of Bryan Cave LLP, attorneys of record for the Opposer, at 560 Mission Street, 25<sup>th</sup> Floor, San Francisco, CA 94105 on May 08, 2015 via first class U.S. Mail.

  
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